

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
DEC 22 2009

DAVID J. MALLARD, CLERK
BY
DEPUTY _____

ROBERT DANIEL BAILEY, JR., #13080-078 §

VS. § CIVIL ACTION NO. 4:09cv552
CRIM. NO. 4:05cr134(1)

UNITED STATES OF AMERICA §

ORDER OF DISMISSAL

The above-entitled and numbered civil action was referred to United States Magistrate Judge Don D. Bush, who issued a Report and Recommendation concluding that the motion to vacate, set aside, or correct sentence should be dismissed as successive. Movant has filed objections.

The Report of the Magistrate Judge, which contains his proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration. Having made a *de novo* review of the objections raised by Movant to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of Movant are without merit. In his objections, Movant asserts his ignorance of the law and asks that this Court send his motion to the appropriate court. However, as discussed in the Report and Recommendation, Movant should request permission from the Fifth Circuit to file a successive § 2255 motion if he wants to pursue relief through a § 2255 motion.

The Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the motion to vacate, set aside, or correct sentence is **DISMISSED** without prejudice. It is also

ORDERED that all motions not previously ruled on are hereby **DENIED**.

SIGNED this 21st day of December, 2009.

A handwritten signature in black ink, reading "Richard A. Schell". The signature is written in a cursive style with a large, stylized "R" and "S".

RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE